

114TH CONGRESS
1ST SESSION

S. 2436

To provide for certain assistance and reforms relating to the territories,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2015

Ms. WARREN (for herself, Mr. REID, Mr. BLUMENTHAL, and Mr. SCHUMER)
introduced the following bill; which was read twice and referred to the
Committee on Energy and Natural Resources

A BILL

To provide for certain assistance and reforms relating to
the territories, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Puerto Rico Emergency Financial Stability Act of
6 2015”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Effective date.
- Sec. 4. Severability.

Sec. 5. Definitions.

Sec. 6. Automatic stay.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) The Commonwealth Government is con-
 4 fronted with a dire fiscal emergency and liquidity
 5 crisis that imminently threatens the welfare of the
 6 people of the Commonwealth, affecting the provision
 7 of essential public services including public safety,
 8 health care, and education that are needed both to
 9 sustain the welfare of the people and the economic
 10 ability of the Commonwealth to address any future
 11 resolution of debts and legal obligations.

12 (2) A temporary stay on litigation with respect
 13 to debt holders for the Commonwealth is essential to
 14 provide breathing space to the Commonwealth, credi-
 15 tors, and the Congress to determine an orderly proc-
 16 ess for the Commonwealth to address any future res-
 17 olution of legal obligations and to provide the Com-
 18 monwealth a path to sustainable growth; and there-
 19 by, protect the lives of more than 3,500,000 citizens
 20 of the United States living in the Commonwealth.

21 (3) The Commonwealth is in a state of fiscal
 22 emergency brought on by, among other things, a
 23 combination of accumulated operating deficits, cash

1 shortages, management inefficiencies, and excessive
2 borrowing.

3 (4) The Commonwealth Government's debt is
4 unusually complex, with 18 different but inter-re-
5 lated issuers.

6 (A) There is an even larger number of
7 creditor groups, each of which may have diver-
8 gent interests.

9 (B) The debt's unusual complexity will
10 substantially complicate any potential consen-
11 sual restructuring in the absence of Federal leg-
12 islation to facilitate the negotiations.

13 (5) This legislation, which includes a stay on
14 litigation by debt holders, can protect essential gov-
15 ernment services and help the Commonwealth ad-
16 dress its liabilities in an orderly fashion, benefitting
17 all stakeholders.

18 (A) A temporary stay on litigation is es-
19 sential to facilitate an orderly process for stabi-
20 lizing, evaluating, and comprehensively resolv-
21 ing the Commonwealth's fiscal crisis.

22 (B) Avoiding a disorderly race to the
23 courthouse will benefit creditors as well as other
24 stakeholders.

1 (C) Furthermore, the stay is only tem-
2 porary.

3 (b) PURPOSES.—The purposes of this Act are to—

4 (1) provide a limited period of time to permit
5 Congress to enact comprehensive relief for the Com-
6 monwealth, providing it the necessary tools to ad-
7 dress its economic and fiscal crisis; and

8 (2) provide the Commonwealth Government
9 with a tool it needs to address an immediate and im-
10 minent crisis that is unprecedented in the history of
11 the United States.

12 **SEC. 3. EFFECTIVE DATE.**

13 This Act shall take effect on December 18, 2015.

14 **SEC. 4. SEVERABILITY.**

15 If any provision of this Act or the application thereof
16 to any person or circumstance is held invalid, the remain-
17 der of this Act, or the application of that provision to per-
18 sons or circumstances other than those as to which it is
19 held invalid, is not affected thereby.

20 **SEC. 5. DEFINITIONS.**

21 In this Act:

22 (1) BOND.—The term “Bond” means a bond,
23 loan, line of credit, note, or other borrowing title, in
24 physical or dematerialized form, of which—

1 (A) the issuer, borrower, or guarantor is
 2 the Commonwealth Government; and

3 (B) the date of issuance or incurrence of
 4 debt precedes the date of enactment of this Act.

5 (2) COMMONWEALTH.—The term “Common-
 6 wealth” means the Commonwealth of Puerto Rico.

7 (3) COMMONWEALTH GOVERNMENT.—The term
 8 “Commonwealth Government” means the govern-
 9 ment of the Commonwealth, including all its political
 10 subdivisions, public agencies, instrumentalities, and
 11 public corporations.

12 (4) COURT.—The term “court” means the
 13 United States District Court for the District of
 14 Puerto Rico.

15 (5) OTHER TERMS.—Any other term that is
 16 used in section 6 and is defined in title 11, United
 17 States Code, has the meaning given that term under
 18 title 11, United States Code.

19 **SEC. 6. AUTOMATIC STAY.**

20 (a) Except as otherwise provided in this section, the
 21 enactment of this Act operates with respect to any claim,
 22 debt, or cause of action related to a Bond as a stay, appli-
 23 cable to all entities (as such term is defined in section 101
 24 of title 11, United States Code), of—

1 (1) the commencement or continuation, includ-
2 ing the issuance or employment of process, of a judi-
3 cial, administrative, or other action or proceeding
4 against the Commonwealth Government or to re-
5 cover a claim against the Commonwealth Govern-
6 ment;

7 (2) the enforcement, against the Commonwealth
8 Government or against property of the Common-
9 wealth Government, of a judgment;

10 (3) any act to obtain possession of property of
11 the Commonwealth Government or of property from
12 the Commonwealth Government or to exercise con-
13 trol over property of the Commonwealth Govern-
14 ment;

15 (4) any act to create, perfect, or enforce any
16 lien against property of the Commonwealth Govern-
17 ment;

18 (5) any act to create, perfect, or enforce against
19 property of the Commonwealth Government any lien
20 to the extent that such lien secures a claim;

21 (6) any act to collect, assess, or recover a claim
22 against the Commonwealth Government; and

23 (7) the setoff of any debt owing to the Com-
24 monwealth Government against any claim against
25 the Commonwealth Government.

1 (b) The enactment of this Act does not operate as
 2 a stay under subsection (a) of this section of the continu-
 3 ation of, including the issuance or employment of process,
 4 a judicial, administrative, or other action or proceeding
 5 against the Commonwealth Government that was com-
 6 menced on or before the date of enactment of this Act.

7 (c) Except as provided in subsection (d), (e), or (f),
 8 a stay of an act under subsection (a) shall cease to have
 9 effect as of April 1, 2016.

10 (d) On motion of a party in interest and after notice
 11 and a hearing, the court may grant relief from a stay
 12 under subsection (a)—

13 (1) for cause, including the lack of adequate
 14 protection of a security interest in property of such
 15 party in interest; or

16 (2) with respect to a stay of an act against
 17 property under subsection (a), if—

18 (A) the debtor does not have an equity in
 19 such property; and

20 (B) such property is not necessary for the
 21 Commonwealth to provide essential services.

22 (e) Thirty days after a request under subsection (d)
 23 of this section for relief from the stay of any act against
 24 property of the Commonwealth Government under sub-
 25 section (a) of this section, such stay is terminated with

1 respect to the party in interest making such request, un-
2 less the court, after notice and a hearing, orders such stay
3 continued in effect pending the conclusion of, or as a re-
4 sult of, a final hearing and determination under subsection
5 (d) of this section. A hearing under this subsection may
6 be a preliminary hearing, or may be consolidated with the
7 final hearing under subsection (d) of this section. The
8 court shall order such stay continued in effect pending the
9 conclusion of the final hearing under subsection (d) of this
10 section if there is a reasonable likelihood that the party
11 opposing relief from such stay will prevail at the conclu-
12 sion of such final hearing. If the hearing under this sub-
13 section is a preliminary hearing, then such final hearing
14 shall be concluded not later than 30 days after the conclu-
15 sion of such preliminary hearing, unless the 30-day period
16 is extended with the consent of the parties in interest or
17 for a specific time which the court finds is required by
18 compelling circumstances.

19 (f) Upon request of a party in interest, the court,
20 with or without a hearing, shall grant such relief from the
21 stay provided under subsection (a) of this section as is
22 necessary to prevent irreparable damage to the secured in-
23 terest of an entity in property, if such interest will suffer
24 such damage before there is an opportunity for notice and
25 a hearing under subsection (d) or (e) of this section.

1 (g) No order, judgment, or decree entered in violation
2 of this section shall have any force or effect.

3 (h) In any hearing under subsection (d) or (e) con-
4 cerning relief from a stay—

5 (1) the party requesting such relief has the bur-
6 den of proof on the issue of the debtor's equity in
7 property; and

8 (2) the party opposing such relief has the bur-
9 den of proof on all other issues.

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